

UNITED STATES DISTRICT COURT
for the

FILED
United States District Court
Albuquerque, New Mexico

In the Matter of the Seizure of)
(Briefly describe the property to be seized))
Approx. \$3,969 in U.S.C; a Glock 26 pistol, s/n) Case No. 22 MR 1470
AFPK202; a Glock 43x pistol, s/n BTFT432; and 19)
9mm cartridges)

Mitchell R. Elfers
Clerk of Court

**APPLICATION FOR A WARRANT
TO SEIZE PROPERTY SUBJECT TO FORFEITURE**

I, a federal law enforcement officer or attorney for the government, request a seizure warrant and state under penalty of perjury that I have reason to believe that the following property in the _____ District of _____ New Mexico is subject to forfeiture to the United States of America under 21 U.S.C. § 881(a)(6)&(11) (describe the property):

Approximately \$3,969 in U.S. Currency; a Glock 26 pistol, s/n AFPK202; a Glock 43x pistol, s/n BTFT432; and 19 9mm cartridges, seized by the Federal Bureau of Investigation on September 29, 2022, and currently in law enforcement custody.

The application is based on these facts:

See the attached four page Affidavit in Support of Application for Seizure Warrant.

☒ Continued on the attached sheet.


Applicant's signature

Jordan Spaeth, FBI Special Agent

Printed name and title

Electronically submitted and telephonically sworn to me.

Date: October 4, 2022


Judge's signature

City and state: Albuquerque, New Mexico

Kirtan Khalsa, U.S. Magistrate Judge

Printed name and title

AFIDAVIT IN SUPPORT OF APPLICATION FOR SEIZURE WARRANT

I, Jordan Spaeth, being first duly sworn, hereby depose and state as follows:

INTRODUCTION AND BACKGROUND OF THE AFFIANT

1. I am a Special Agent with the FBI and have been a sworn law enforcement officer for over 13 years, serving as a police officer and FBI Special Agent. I have been with the FBI since 2018 and am currently assigned to the Albuquerque division of the FBI, to the Violent Gang Task Force ("VGTF"). Over the course of my career, I have arrested hundreds of persons for offenses relating to armed robberies, firearm violations, bank robberies, illegal narcotics, and other criminal conduct. Through my training and experience, I am familiar with the methods and means used by individuals, drug trafficking organizations (DTOs), and gang/criminal enterprises to purchase, transport, store, and distribute controlled substances. I am also familiar with how those individuals and organizations hide or attempt to hide the (often substantial) profits generated from their criminal activities.

PROPERTY TO BE SEIZED

2. This Affidavit is in support of an Application for a Seizure Warrant for approximately \$3,969.00 in U.S. Currency (hereinafter referred to as Subject Currency), a **Glock 26 9x19mm caliber pistol**, serial number AFPK202; a **Glock 43x 9x19mm caliber pistol**, serial number BTFT432 (Stolen); and **nineteen (19) 9x19mm cartridges** (hereinafter referred to as Subject Firearms) which are currently in FBI evidence.

STATEMENT OF PROBABLE CAUSE

3. On September 28, 2022, a marked New Mexico State Police (NMSP) officer was conducting traffic enforcement in the north valley of Albuquerque, New Mexico when he observed a vehicle speeding. At approximately 0046 hours the officer stopped the speeding vehicle, which was a grey/green Chevrolet SUV bearing NM tag 89549US, near the intersection of Palo Duro Rd

AFIDAVIT IN SUPPORT OF APPLICATION FOR SEIZURE WARRANT

Northwest and 4th Street Northwest. The officer spoke with the sole occupant of the vehicle, later identified as Marquis CRUZ, and observed a firearm on the front passenger seat.

4. The officer asked CRUZ about the firearm and he (CRUZ) advised it was his friend's he had just dropped off, he also stated, that he was taking the firearm and medium sized black in color backpack to her because she had left it in the vehicle. CRUZ was unable to locate his driver's license, the officer had CRUZ exit the vehicle.

5. While the officer was running a license and wanted check on CRUZ, he asked to smoke a cigarette and advised that the cigarettes were next to the firearm on the front seat. The officer retrieved the cigarettes and the firearm from the front seat and returned to their patrol vehicle.

6. Upon reviewing the National Criminal Information Center (NCIC) return, the officer observed an alert for armed and dangerous regarding CRUZ and suspected CRUZ may be a violent convicted felon. The firearm was also checked through NCIC and it came back reported stolen by Albuquerque Police Department.

7. Officers obtained a NCIC criminal history on CRUZ and learned he was a convicted felon, however the officer finished completing a summons instead of immediately detaining CRUZ. After the officer completed the summons and while CRUZ was not under arrest, CRUZ stated "I'm fucked." When asked why, CRUZ stated he knew another officer was coming (indicating that CRUZ knew he was about to be arrested). The officer then handcuffed CRUZ and placed him in the patrol unit.

8. Upon conducting a tow inventory, officers observed a clear bag containing a large amount of blue pills suspected to contain Fentanyl, the vehicle was then sealed pending a search warrant.

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9. CRUZ was transported to the NMSP office and after being advised his rights per Miranda he agreed to speak with the officers without a lawyer present. CRUZ stated he knew he was a felon and should not be around and/or possess firearms because he was a felon. CRUZ also admitted the Fentanyl pills were his and stated he consumed approximately 50 pills per day.

10. CRUZ was booked on felony charges of receipt, transportation or possession of a firearm or destructive device by certain persons and receiving stolen property (retain)(firearm) and speeding in case number case number T-4-FR-2022-004752.

11. The NMSP sealed the vehicle and obtained a search warrant, issued by the Second Judicial District Court in Bernalillo County, NM, case number SW-2022-2862. Upon executing the search warrant officers located several items inside the vehicle, including but not limited to the below items:

- a. Glock 26 9x19mm caliber pistol, serial number AFPK202;
- b. Glock 43x 9x19mm caliber pistol, serial number BTFT432 (Stolen);
- c. approximately \$3,969 in United States currency (Subject Currency);
- d. nineteen (19) 9x19mm cartridges;
- e. approximately 1,746 blue pills suspected to contain fentanyl;
- f. approximately 6.2 grams of suspected methamphetamine;
- g. approximately 1 gram of suspected cocaine;
- h. approximately 5.6 grams of dried fibrous slender stems, suspected to contain psilocybin; and
- i. approximately 15 suspected Xanax prescription tablets.

12. Officers booked the above items into the NMSP evidence system. On September 29, 2022, I retrieved the Subject Firearms and Subject Currency from NMSP and booked them

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into FBI evidence.

13. I counted the Subject Currency and determined it to be of various denominations, specifically it was approximately one (1) one hundred dollar bill (\$100), one hundred and seventy eight (178) twenty dollar bills (\$20), two (2) ten dollar bills (\$10), fifty five (55) five dollar bills (\$5), thirteen (13) one dollar bills (\$1), and four (4) quarters (\$.25). In my training and experience, someone driving around late at night with firearms, distribution quantities of narcotics, and large amounts of cash in varying denominations is making retail sales of narcotics, which explain the odd combinations of denominations of which make up the Subject Currency.

14. I examined the Subject Firearms and believe they meet the federal definition of a firearm and ammunition pursuant to 18 U.S.C. § 921 Chapter 44. In my training and experience I know that drug dealers, violent convicted felons, and gang members possess firearms because they are tools of the trade, firearms facilitate their drug trafficking ventures as well as to protect their illegal proceeds.

CONCLUSION

15. Based on the circumstances contained herein, I believe there is probable cause to establish the Subject Currency represents proceeds of illegal drug trafficking and firearms used or intended to be used to facilitate the transportation, sale, receipt, possession, or concealment of controlled substances and any proceeds traceable to such property, as described in Title 21 of the United States Code. As such, I believe the Subject Currency and firearm evidence may be seized and subject to forfeiture by the United States Department of Justice pursuant to 21 U.S.C. §§ 881(a)(6) and 881(a)(11). This affidavit was reviewed by Assistant United States Attorney Paul Mysliwicz.

AFIDAVIT IN SUPPORT OF APPLICATION FOR SEIZURE WARRANT

Respectfully submitted,



Jordan Spaeth
Special Agent
Federal Bureau of Investigation

Sworn telephonically and signed electronically on October 4, 2022:



HONORABLE KIRTAN KHALSA
UNITED STATES MAGISTRATE JUDGE
ALBUQUERQUE, NEW MEXICO